

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Valentina Concha-Toro	Team: Squad #15	CCRB Case #: 201907769	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 08/30/2019 9:36 AM	Location of Incident: Front of § 87(2)(b)	Precinct: 70	18 Mo. SOL 2/28/2021	EO SOL 10/15/2021	
Date/Time CV Reported Tue, 09/03/2019 9:56 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/03/2019 9:56 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Kimberly Lucas	17843	958844	070 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Dana Mondello	02829	960956	070 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Kimberly Lucas	Abuse: Police Officer Kimberly Lucas threatened to arrest § 87(2)(b)	§ 87(2)(b)
B.POF Kimberly Lucas	Abuse: Police Officer Kimberly Lucas threatened to issue summons to § 87(2)(b)	§ 87(2)(b)

Case Summary

On September 3, 2019, § 87(2)(b) submitted this complaint to the CCRB over the telephone.

At approximately 9:36 a.m. on August 30, 2019, § 87(2)(b) was sitting and smoking cigarettes outside of § 87(2)(b) § 87(2)(b) in Brooklyn. § 87(2)(b) told § 87(2)(b) he needed smoke elsewhere and § 87(2)(b) refused to move. § 87(2)(b) called 9-1-1 and PO Kimberly Lucas and PO Dana Mondello from the 70th Precinct responded. PO Lucas approached § 87(2)(b) and asked for his ID and § 87(2)(b) refused. PO Lucas told § 87(2)(b) if he did not provide his ID he would be taken to “jail” (**Allegation A: Abuse of Authority – § 87(2)(g)**). § 87(2)(b) gave PO Lucas his ID. PO Lucas allegedly told § 87(2)(b) that if she returned, he would be issued a summons (**Allegation B: Abuse of Authority – § 87(2)(g)**). PO Lucas and PO Mondello left the location. No arrests were made of summonses issued.

There was no video evidence obtained during the investigation.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Kimberly Lucas threatened to arrest

§ 87(2)(b)

It is undisputed that § 87(2)(b) § 87(2)(b) is a residential co-op. § 87(2)(b) is the building’s superintendent and § 87(2)(b) currently resides at the location. Posted beside the building’s three entrances are signs that note there is no smoking within 50 feet of the building entrance. During the incident § 87(2)(b) was sitting on a bench approximately 20 feet from the building entrance and smoking cigarettes. Upon arriving, PO Lucas and PO Mondello approached § 87(2)(b) who was standing on the sidewalk approximately 15 feet from where § 87(2)(b) was seated. PO Lucas and PO Mondello approached § 87(2)(b) and informed him that the building’s signs noted he was not allowed to smoke where he was seated. PO Lucas asked § 87(2)(b) for his ID. It is in dispute whether § 87(2)(b) refused to provide PO Lucas his ID and whether she threatened him with arrest.

§ 87(2)(b) stated (Board Review 01) that he told PO Lucas he was not breaking any rules by smoking where he was. PO Lucas asked § 87(2)(b) for his ID and § 87(2)(b) refused to provide it. PO Lucas asked again for § 87(2)(b)’s ID and he refused. PO Lucas told § 87(2)(b) that if he did not provide his ID he would be taken to “jail.” § 87(2)(b) understood this to mean he would be arrested. § 87(2)(b) provided PO Lucas with his ID. PO Lucas did not explain what he would be arrested or taken to “jail” for. PO Mondello walked to where § 87(2)(b) was standing on the sidewalk.

§ 87(2)(b) stated (Board Review 02) that PO Lucas asked approximately three times for § 87(2)(b)’s ID before PO Lucas told § 87(2)(b) if he did not provide his ID he would be arrested.

PO Lucas stated (Board Review 03) that she asked § 87(2)(b) for his ID and that he provided it. PO Lucas did not recall § 87(2)(b) refusing to provide his ID. PO Lucas explained that an individual refusing to provide ID may be removed to the stationhouse so a summons may be issued there. PO Lucas denied she or any officer on scene told § 87(2)(b) he would be taken to “jail” or that he would be arrested. § 87(2)(b) was not doing anything he could have been

arrested for.

PO Mondello stated (Board Review 04) that she spoke briefly to § 87(2)(b) upon arriving on scene and then moved to speak to § 87(2)(b) approximately 15 feet away. PO Mondello did not recall PO Lucas ask § 87(2)(b) for his ID. PO Mondello was not made aware of any issue with § 87(2)(b) providing his ID to PO Lucas. PO Mondello did not recall § 87(2)(b) refuse to provide PO Lucas with his ID. PO Mondello did not recall PO Lucas threatening § 87(2)(b) with arrest. § 87(2)(b) was not doing anything he could have been arrested for.

§ 87(2)(g)

According to NYC Local Law 2017/147 (Board Review 05), class A dwellings, such as co-ops, are to create their own smoking policy for the building to be an addendum to smoking policies in NYC administrative code.

According to NYPD Patrol Guide, Section 214-36 (Board Review 06), if there are no other violations other than that of the Smoke-Free Air Act, only agents of the following departments are able to enforce the violation: The Department of Health, Department of Consumer Affairs, Department of Environmental Protection, Fire Department, Sanitation Department and The Buildings Department.

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Kimberly Lucas threatened to issue summons to § 87(2)(b)

§ 87(2)(b) stated (Board Review 01) that PO Lucas walked to her patrol vehicle with § 87(2)(b)'s ID and then returned to where he had been sitting. PO Lucas told § 87(2)(b) that if she came back to the location, she would issue him a summons. PO Lucas did not explain what the summons would be for.

§ 87(2)(b) stated (Board Review 02) that PO Lucas and PO Mondello walked to their patrol vehicle with § 87(2)(b)'s ID and then returned to where he had been sitting. PO Lucas told § 87(2)(b) that he was not allowed to smoke in front of the building. PO Lucas did not say anything else to § 87(2)(b). PO Lucas and PO Mondello approached § 87(2)(b) and told him

that they could not do anything else regarding the complaint.

PO Lucas stated (Board Review 03) that after she received the ID from § 87(2)(b) she did not recall what she said to him. During her CCRB statement, PO Lucas opined that § 87(2)(b) possibly could have been issued a summons for smoking in a non-smoking area. PO Lucas did not return to her patrol vehicle until the end of the incident when she left. PO Lucas did not recall telling § 87(2)(b) that if she returned to the location, she would issue him a summons. PO Lucas did not recall either she or any other officer threatening § 87(2)(b) with a summons.

PO Mondello stated (Board Review 04) that she had stood beside § 87(2)(b) and did not approach § 87(2)(b) after she approached him upon arriving at the incident. PO Mondello did not recall whether PO Lucas walked the patrol vehicle and then returned to § 87(2)(b). § 87(2)(b) was not doing anything he could have been summonsed for. PO Mondello did not recall any conversation regarding a summons. PO Mondello did not recall PO Lucas threaten § 87(2)(b) with a summons if she returned.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) had been a party (Board Review 09).
- PO Lucas has been a member-of-service for four years and has three CCRB allegations in one prior case, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- On October 10, 2019, this complaint was sent to mediation and on November 11, 2019, the case was returned to investigation as PO Lucas declined to mediate.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- On February 13, 2019, an email request for a Notice of Claim was sent to the NYC Comptroller's office, and on the same day an email was received advising there was no record of any Notice of Claim (Board Review 11).

Squad No. 15

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date